

Fresno, California

January 30, 2007

The City Council met in regular session at the hour of 8:30 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Brian Calhoun	Councilmember
	Mike Dages	Councilmember
	Jerry Duncan	Councilmember
	Cynthia Sterling	Councilmember
	Larry Westerlund	Councilmember
	Blong Xiong	Acting Council President
	Henry Perea	Council President

Andy Souza, City Manager
James Sanchez, City Attorney
Becky Klisch, City Clerk
Yolanda Salazar, Assistant City Clerk

Tyler McGlasson, President of the Bullard High School Branch of the Fellowship Christian Athletes Club gave the invocation, and President Perea led the Pledge of Allegiance.

PRESENTATION OF EXCELLENCE TO TRANSPORTATION AWARDS TO THE CITY COUNCIL AND CITY MANAGER BY MALCOLM EDWARDS OF CALTRANS

Presentation made.

PROCLAMATION OF "GO RED FOR WOMEN - AMERICAN HEART MONTH" - PRESIDENT PEREA AND COUNCILMEMBER STERLING

RESOLUTIONS OF COMMENDATION TO THE MAJOR NARCOTICS UNIT AND SPECIAL OPERATIONS TASK FORCE - MAYOR AUTRY

CERTIFICATES OF RECOGNITION TO THE MAYOR'S TREE LIGHTING CEREMONY COMMITTEE - MAYOR AUTRY

PROCLAMATION OF "COMCAST CARES DAY" - COUNCILMEMBER CALHOUN

PROCLAMATION OF "BIG READ DAY" - COUNCILMEMBER STERLING

The above proclamations, resolutions and certificates were read and presented **(2 - 0)**.

PRESENTATION OF P.R.I.D.E. TEAM CERTIFICATES FOR THE WINTER QUARTER

Certificates of Commendation were presented to: Michael Munoz, Mayor/Council/City Manager/Call Center/City Clerk Offices; Yvonne Dedmore and Roger Uyeno, Airports Department; Tammy Cummings, City Attorney's Office; Pedro Rivera, Finance Department; Larry French, Fire Department; Judith Nishi, Shirley Neeley and Steve Garcia, Fresno Area Express; Fernando Acosta and Nicholas Maresca, General Services Department; Amandeep Brar and Michael Tooma, Information Services Department; Cesar Alvarez, Darryl Du'chene, Isaac Jackson and Jennifer Schneider, Parks, Recreation & Community Services Department; Janet Yarbrough, Personnel Services Department; Liana Leyva and Melissa Van Burgh, Planning & Development Department; Richard Byrd, Rodney Neilson, Jesse Herring and Garry Snow, Police Department; May Albiani, Richard Koolhaas, Jerry Flores, Frankie Johnson, Chris Alsing and Doug Killion, Public Utilities Department; and Terese Edwards, Stephanie Bowen, Sherman Dozier, Debbie Bernard and Mary Ann Lewis, Public Works Department. A reception for the employees was held immediately after the presentation.

RECESS - 9:49 A.M. - 10:03 A.M.

APPROVE MINUTES OF JANUARY 23, 2007

On motion of Councilmember Westerlund, seconded by Councilmember Dages, duly carried, RESOLVED, the minutes of January 23, 2007, approved as submitted.

COUNCIL MEMBER REPORTS AND COMMENTS:

COUNCILMEMBER WESTERLUND: (1) Reiteration of request for status of giving parking enforcement officers the ability to enforce vehicle violations on private property; and (2) pursuant to AB 1234 report on trip to Oklahoma City to view their downtown river.

COUNCILMEMBER STERLING: (1) Request for information on issue(s) involving lease with Rachel Palacios for 1237 Van Ness, with City Manager Souza stating staff would meet with Councilmember Sterling this week on the legal issues involved; (2) report on trip to Oklahoma City along with Councilmember Westerlund and other City and Agency officials, need for Fresno to look at these types of opportunities when they come forth, and desire to have the Mayor, City Manager and other Council members make such trips in the future; and (3) notification of appearance next week under "scheduled communication" by Mr. Glassman, owner of Gateway Ice Rink, to discuss his desire to sell the rink to the City, with Councilmember Sterling adding all the information received will be included in the packets for Council's information.

COUNCILMEMBER DUNCAN: (1) Request City Manager request public works staff assist and look into changing the parking condition due to the serious bottleneck problem caused by vehicles parking on Spruce off Blackstone; (2) new Vista software system installed this weekend and notification to ISD that the City's website "takes forever" to access; (3) request City Attorney provide clarification to Council on the definition of "Attorney-Client Privilege"; and (4) the Gateway Ice Rink issue, thank you to City Manager/Mayor's Office for the valuable correspondence received, concern with property owner's comments that the Mayor and Council don't care about Fresno's kids, and intent to make the correspondence available on District 6's Web site on Thursday to expose the real issue and what the property owner is trying to do.

COUNCILMEMBER DAGES: Commendation to the Big Fresno Fair for receiving top honors/awards at the 84th Annual Western Fairs Association Achievement Awards show in Reno.

COUNCILMEMBER CALHOUN: (1) Review of Planning Commission minutes and concern with number of meetings attended by only four out of seven members and need to replace commissioners if they can not attend meetings; and (2) request for status on scheduling of the bond workshop which was to have been scheduled this date, with Mr. Souza responding.

PRESIDENT PEREA: (1) Tarps being erected to extend garages/driveways being illegal and if an educational effort can be conducted to inform residents that it is illegal, with Mr. Souza responding; and (2) commendation to Amber Adams and Brian Russell for helping him serve his constituents at his district meeting last evening.

APPROVE AGENDA:

(10:00 A.M. #1) CONTINUED HEARING TO CONSIDER ADOPTION OF A RESOLUTION AMENDING THE STORM DRAINAGE AND FLOOD CONTROL MAP AND THE DRAINAGE FEES AND COSTS FOR EACH LOCAL DRAINAGE AREA FOR ALL DEVELOPMENTS WITHIN THE JOINT AREA OF THE CITY OF FRESNO AND THE FRESNO METROPOLITAN FLOOD CONTROL DISTRICT (*Hearing cancelled--will be re-noticed*)

Cancelled -- to be re-noticed.

(2-A) ESTABLISHMENT OF A COUNCIL SUBCOMMITTEE FOR CITYWIDE STREET IMPACT FEES - COUNCILMEMBER WESTERLUND

Laid over one week at the direction of Councilmember Westerlund who stated the staff report that was prepared for him did not go into sufficient detail of what he wanted to do.

On motion of Councilmember Westerlund, seconded by Councilmember Dages, duly carried, RESOLVED, the **AGENDA** hereby approved, *as amended*, by the following vote:

Ayes : Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea
Noes : None
Absent : None

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ADOPT CONSENT CALENDAR:

Speaking in opposition to Item **1-P** and requesting the item be removed from the Consent Calendar for discussion were: David Jones, Regional Manager of Associated General Contractors of California (AGC), 2307 N. Fine (**3 - 0**); and Bruno Dietl, President of Vulcan Construction and Maintenance.

Councilmember Calhoun pulled Item **1-P** from the Consent Calendar for discussion; and relative to Item **1-D** Councilmember Westerlund questioned how many geo-bases the City would get, relative to **1-H** requested a report, and relative to Item **1-O** questioned where the City was with the 72 NNLB projects, with City Manager Souza advising staff would respond.

(1-A) APPROVE AGREEMENT WITH THE PINEDALE COUNTY WATER DISTRICT FOR TRANSPORTATION AND TREATMENT OF SEWAGE, RESCIND THE EXISTING 1976 CONTRACT FOR SEWER TRANSPORTATION AND TREATMENT, AND AUTHORIZE THE DIRECTOR OF PUBLIC UTILITIES TO ENTER INTO THE UPDATED AGREEMENT

(1-B) ITEM REMOVED FROM THE AGENDA

(1-C) AWARD A CONTRACT TO GEORGE DAKOVICH AND SON IN THE AMOUNT OF \$114,104 FOR INSTALLATION OF AN 8" WATER MAIN IN THE CALAVERAS/BLACKSTONE ALLEY FROM BULLARD TO ESCALON AVENUES

(1-D) AWARD A THREE-YEAR REQUIREMENTS CONTRACT WITH TWO ONE-YEAR EXTENSIONS TO WEST COAST ARBORISTS, INC., IN THE AMOUNT OF \$729,6754 FOR MAINTENANCE OF THE STREET TREE COMPONENT OF THE MUNICIPAL FOREST

(1-E) AWARD A ONE-YEAR REQUIREMENTS CONTRACT TO CALAVERAS MATERIALS, INC., IN THE AMOUNT OF \$2,138,718.51 FOR ASPHALT CONCRETE, WITH DEDUCTIVE ADD ALTERNATE FOR CONCRETE AND ASPHALT RECYCLING

(1-F) RESOLUTION NO. 2007-29 - APPROVING A MASTER AGREEMENT FOR FEDERAL-AID LOCAL TRANSPORTATION PROJECTS WITH THE STATE OF CALIFORNIA, DEPARTMENT OF TRANSPORTATION (CALTRANS), AND AUTHORIZING THE EXECUTION OF DOCUMENTS BY THE PUBLIC WORKS DIRECTOR OR DESIGNEE

(1-G) APPROVE APPLICATION FOR, AND ACCEPTANCE OF, A GRANT AWARD FOR \$225,400 FROM THE METROPOLITAN MEDICAL RESPONSE SYSTEM (MMRS) GRANT PROGRAM, THROUGH THE COUNTY OF FRESNO, AND AUTHORIZE EXECUTION OF REQUIRED DOCUMENTS

1. RESOLUTION NO. 2007-30 - AUTHORIZING THE APPLICATION FOR, AND ACCEPTANCE OF, FY 2006 CYCLE U.S. DEPARTMENT OF HOMELAND SECURITY/OFFICE OF DOMESTIC PREPAREDNESS MMRS GRANT PROGRAM FUNDING, AND AUTHORIZING COMPLETION OF DOCUMENTS

2. RESOLUTION NO. 2007-31 - 52ND AMENDMENT TO AAR 06-253 APPROPRIATING THE \$225,400 FROM THE MMRS GRANT TO THE FIRE DEPARTMENT TO PROVIDE TRAINING, EQUIPMENT, MEDICAL SUPPLIES AND CONTINUING PROGRAM OVERSIGHT

(1-H) APPROVE FIRST AMENDMENT TO THE INTERIM CONCESSION AGREEMENT WITH DENNIS AND KIMBERLY BEARD FOR OPERATION AND MAINTENANCE OF CAMP FRESNO AND CAMP FRESNO JR. AT DINKEY CREEK

(1-I) RESOLUTION NO. 2007-32 - 15TH AMENDMENT TO SALARY RES. 06-257 MODIFYING THE WAGE STRUCTURE OF THE POLICE CADET TEMPORARY CLASSIFICATIONS

(1-J) RESOLUTION NO. 2007-33 - APPROVING THE FINAL MAP OF TRACT NO. 5614, SOUTH SIDE OF W. BULLARD BETWEEN N. GRANTLAND AND N. GARFIELD AVENUES

1. AUTHORIZE THE PUBLIC WORKS DIRECTOR, PUBLIC UTILITIES DIRECTOR AND THE PLANNING & DEVELOPMENT DIRECTOR TO EXECUTE THE NECESSARY DOCUMENTS

(1-K) CONSIDER THE PROPOSED DAKOTA-CORNELIA NO. 2 REORGANIZATION AND APPROVAL TO FILE WITH LAFCO FOR DETACHMENT OF THE TERRITORY FROM THE NORTH CENTRAL FIRE PROTECTION DISTRICT AND THE KINGS RIVER CONSERVATION DISTRICT AND ANNEXATION OF THE TERRITORY TO THE CITY

1. AFFIRM CITY COUNCIL ACTION OF APRIL 18, 2006, ADOPTING THE ENVIRONMENTAL FINDING OF E.A. NO. R-05-40/T-5479 DATED NOVEMBER 10, 2005, THAT THE PROJECT PROPOSAL CONFORMS TO THE PROVISIONS OF THE GENERAL PLAN MEIR

2. **RESOLUTION NO. 2007-34** - APPLYING TO LAFCO IN THE MATTER OF THE PROPOSED DAKOTA-CORNELIA NO. 2 REORGANIZATION

(1-L) APPROVE AGREEMENT WITH TOWNSEND PUBLIC AFFAIRS FOR LOBBYING SERVICES

(1-M) APPROVE FIRST AMENDMENT TO THE AGREEMENT WITH FRESNO'S CHAFFEE ZOO CORPORATION RELATIVE TO PROPERTY INSURANCE

(1-N) AUTHORIZE THE INTERIM CHIEF INFORMATION OFFICER TO EXECUTE AN AGREEMENT WITH PROFESSOR MIKE CANNIFF FOR CONSENT TO PUBLISH AND USE A CASE STUDY AS AN EDUCATIONAL EXERCISE FOR STUDENTS

(1-O) AWARD A CONTRACT IN THE AMOUNT OF \$518,950.75 TO FOSTER & SONS GENERAL ENGINEERING CONTRACTORS, INC., FOR INSTALLATION OF STREET INFRASTRUCTURE IN NO NEIGHBORHOOD LEFT BEHIND AREA 96

On motion of Councilmember Westerlund, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes	:	Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea
Noes	:	None
Absent	:	None

(10:00 A.M.) WORKSHOP REGARDING EMERGENCY MEDICAL SERVICES PROVIDED BY THE FIRE DEPARTMENT AND AMERICAN AMBULANCE

Fire Chief Bruegman gave opening remarks and Fresno County EMS Director Dan Lynch and American Ambulance General Manager Todd Valeri gave a PowerPoint presentation on emergency medical services and how that service is delivered within the city and county of Fresno which included the eight components of the EMS system, contracts with other counties, relevant history of EMS in Fresno county, designated providers, the importance and goal of first providers, agreement with the City of Fresno, the Fresno County EMS Communication Center, and American Ambulance and their service range and services provided.

Discussion ensued with Chief Bruegman and Mr. Lynch responding to questions and/or comments of Councilmembers Calhoun, Duncan and Westerlund relative to whether there were any issues/concerns that Council should be informed of, if the areas covered by agencies was similar to the mutual aid box alarm system, Chief Bruegman's leadership role in fire response to areas outside the city limits, if there were still county islands within city limits (**4 - 0**), why there was a difference between trained police and fire/EMS dispatchers, and gladness to hear Clovis will become part of the fire/EMS dispatch in April. There was no further discussion.

(10:45 A.M.) HEARING TO CONSIDER AN OVERRIDE OF THE AIRPORT LAND USE COMMISSION (ALUC) DETERMINATION AND CONSIDERATION OF REZONE APPLICATION NO. R-06-48 AND ENVIRONMENTAL FINDINGS FILED BY MILTON BARBIS, PROPERTY LOCATED ON THE SOUTHEAST CORNER OF N. CEDAR AND E. HAMPTON WAY

1. CONSIDER AND ADOPT E.A. NO. R-06-48/S-06-264, DATED OCTOBER 5, 2006, DETERMINATION OF INITIAL STUDY TO FILE A FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR

2. **RESOLUTION NO. 2007-35** - OVERRIDING THE ALUC'S DETERMINATION OF INCONSISTENCY WITH ADOPTED PLANS AND POLICIES REGARDING REZONE APPLICATION NO. R-06-48

3. **BILL NO. B-9 - ORDINANCE NO. 2007-9** - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM R-A TO C-P/cz

President Perea announced the time had arrived to consider the issue and opened the hearing. Planner Sanchez reviewed the issue, all as contained in the staff report as submitted, and recommended approval.

Upon call, no one wished to be heard and President Perea closed the hearing.

Mr. Sanchez responded to questions and/or comments of Councilmembers Westerlund and Xiong relative to ALUC's concern of inconsistency, what other land uses would be appropriate for the site, the proposed use being consistent, the project and approach zones, conditions imposed, and if the ALUC did not offer/recommend alternative land uses.

On motion of Councilmember Westerlund, seconded by Councilmember Duncan, duly carried, RESOLVED, the environmental finding for the subject E.A. approved, the above entitled Resolution No. 2007-35 hereby adopted, and the above entitled Bill No. B-9 rezoning the site adopted as Ordinance No. 2007-9, by the following vote:

Ayes	:	Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea
Noes	:	None
Absent	:	None

(10:50 A.M.) CONTINUED HEARING ON REZONE APPLICATION NO. R-05-82 AND ENVIRONMENTAL FINDINGS FILED BY LOUIE'S LLC, SOUTH SIDE OF E. ILLINOIS BETWEEN N. MINNEWAWA AND N. DEWITT AVENUES

1. CONSIDER AND ADOPT E.A. NO. R-05-82/T-5585, DATED JANUARY 26, 2006, DETERMINATION OF INITIAL STUDY TO FILE A FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR

2. BILL NO. B-10 - ORDINANCE NO. 2007-10 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM AL-20 TO R-1

President Perea announced the time had arrived to consider the issue, opened the hearing, and upon his question staff advised the report as submitted was complete and there was no new information to add.

An unidentified applicant representative spoke to the proposed infill moderate-income housing project and requested approval.

Upon call, no one else wished to be heard and President Perea closed the hearing.

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, RESOLVED, the environmental finding for the subject E.A. hereby approved, and the above entitled Bill No. B-10 rezoning the site adopted as Ordinance No. 2007-10, by the following vote:

Ayes	:	Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea
Noes	:	None
Absent	:	None

(2-B) RECOMMEND STAFF EVALUATE AND CONSIDER WHETHER A LOCAL EARNED INCOME TAX CREDIT (EITC) MIGHT ASSIST IN ADDRESSING FRESNO'S POVERTY CHALLENGES - COUNCILMEMBER CALHOUN AND PRESIDENT PEREA

Councilmember Calhoun read into the record his and President Perea's report to Council as submitted, and made a motion to direct staff as outlined above. President Perea seconded the motion and spoke additionally to the issue stating the reality was there were a lot of working poor in this community, many organizations were working hard to address issues, this proposal was one solution and would put money back into the pockets of families in need, there would be a cost but San Francisco showed that the private industry can contribute and that was an option to look into, and spoke to the importance of getting the word out on the EITC.

Speaking in support of the issue were: Sandra Flores representing the United Way, Manuel Romero representing Central California Legal Services (CCLS) and EITC partners; Andrew Polterock of Jackson Hewitt Tax Service; and Daniel Guerra of the Fresno West Coalition.

President Perea, Mr. Romero and City Manager Souza responded to questions and/or comments of Councilmembers Dages and Duncan relative to how much agencies charge to prepare tax forms, concern with taking advantage of families by charging outrageous fees, support for the motion to see what staff brings back, what the City Manager's position was on this matter, the EITC being an important tool and good program but the City not being in the business of direct distribution of welfare payments to low-income people, need to utilize resources to educate people and make them aware of the EITC, and this proposal being well intended but missing the mark.

Councilmembers Sterling and Xiong stated their support for the motion and spoke to the issue and to the importance of everyone working together to address concentrated poverty. Councilmember Westerlund stated this was an interesting idea but he felt there was lack of information, expressed concern with the City forgoing dollars that it receives and elaborated, and concurred with Councilmember Duncan and **(5 - 0)** stated he appreciated the idea but felt the City should help the non-profits get information out on the EITC. Councilmember Calhoun left the meeting at 12:00 noon to teach a class and returned for the afternoon session. Acting President Xiong stated he would support the motion this date clarifying at issue was simply direction to staff to look into the matter and added he hoped to see options come back, and relative to the financial concerns expressed stated if this comes back impacting the general fund or services he would give it a hard look.

On motion of Councilmember Calhoun, seconded by President Perea, duly carried, **RESOLVED**, staff directed to evaluate and consider whether a local EITC might assist in addressing Fresno's poverty challenges, by the following vote:

Ayes	:	Dages, Sterling, Xiong, Perea
Noes	:	Duncan, Westerlund
Absent	:	Calhoun

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(2-C) APPROVE AGREEMENT WITH H&R BLOCK FOR AN OUTREACH PROGRAM TO ASSIST LOW AND MODERATE INCOME RESIDENTS WITH TAX FORM PREPARATION - PRESIDENT PEREA

Noting it was the noon hour and he preferred to hear this matter after lunch, President Perea opened the item up for public input for those in attendance and advised after public input the matter would be continued to after lunch.

Speaking to the issue were: Manuel Romero, on behalf of CCLS/EITC partners, who referenced his letter sent to Council and spoke to the lawsuit brought against H&R Block, to the partnership of agencies who educate/outreach/assist in tax preparation for free, and to the importance of the EITC, and requested, if this is approved, that it be coordinated with some of the local efforts and bring the partners to the table (*Note - after lunch and upon question of Acting President Xiong Mr. Romero clarified they did not support a program where the City provides taxpayer money to a for-profit that sells predatory loans and uses the City logo, and he did not feel this program maximized the efforts and did not get all the money belonging to the low wage earners to them); Sandra Flores of United Way who requested, if this is approved, that the coupon that was provided last year direct people who make under \$50,000 to go to the free sites and those making over \$50,000 to go to H&R Block, and also requested existing efforts be reinforced; and Andrew Polterock, Jackson Hewitt (JH) Tax Service, who requested JH be a part of this as JH was the top locally-owned tax preparer and elaborated, and added H&R Block's revenues go to Kansas City. Councilmember Duncan requested Mr. Polterock direct his offices to remove their illegal signs posted in the public rights-of-way.

Upon call no one else wished to be heard, the matter was continued to after lunch, and President Perea reserved the right to reopen public testimony if needed.

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LUNCH RECESS - 12:12 P.M. - 2:31 P.M.

(2-C) APPROVE AGREEMENT WITH H&R BLOCK FOR AN OUTREACH PROGRAM TO ASSIST LOW AND MODERATE INCOME RESIDENTS WITH TAX FORM PREPARATION - PRESIDENT PEREA (Continued from earlier)

President Perea reviewed the issue and spoke to last year's pilot program and to how it added value to the EITC campaign, to the need for Council authority to use the City logo, to how the City was not being asked to contribute funds as funding would come from District 7's infrastructure budget, to the non-profits concern of not being included last year, to the legal issue with H&R Block, to refining the program to include non-profits next year due to the timing issue this year, to the agreed upon language that was included in the MOU (Section c-iv) prohibiting H&R from providing RALs to those being served from the vouchers, to the issue of RALs being an issue for future debate, and to his support for this program.

Mr. Romero, City Manager Souza and President Perea responded to questions and comments of Councilmember Xiong relative to whether the partners were clear with the MOU wording, other agencies wanting to participate and concern with setting a precedent, concern with use of the City logo being interpreted as the City supporting a certain business, importance of getting the word out, what the City can do to assist, and the importance/meaning of the City logo and if there was a policy in place for its use.

Councilmember Sterling acknowledged the program worked well last year and stated she appreciated the effort but felt uncomfortable this time due to her concerns of a private participant, H&R still addressing legal issues, local JH not being included, and the City logo/District logo being used with a business facing legal challenges. Councilmember Calhoun stated he appreciated the initiative, this was not a perfect world, the program was refined from last year and would be further refined next year, and stated although he agreed with co-partnerships the reality was they were difficult to put together and offered to second the motion should President Perea make one, whereupon a motion and second was made to approve the agreement. Councilmember Westerlund presented questions/comments/concerns relative to how much H&R charges for tax preparation, what JH charges, status of the lawsuit with H&R, H&R still making some profit at the end of the day, concern with the City logo associated with illegal business practices, and need for the City to work with the non-profits who provide the service for free. Councilmember Duncan expressed his support noting refunds generated last year were \$1.6 million total and \$1.1 million for EITC.

On motion of President Perea, seconded by Councilmember Calhoun, duly carried, RESOLVED, an agreement with H & R Block for an outreach program to assist low and moderate income residents with tax form preparation hereby approved, by the following vote:

Ayes : Calhoun, Dages, Duncan, Perea
Noes : Sterling, Westerlund, Xiong
Absent : None

President Perea committed to continuing to try to work with the non-profits to make this program bigger and more successful than last year and talking with Jackson Hewitt about forming an even larger partnership, and added he did not want this to be a divisive issue and stated it would take compromise on both sides of the issue.

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(2:30 P.M. #1) CONTESTED CONSENT CALENDAR:

(1-P) BILL NO. B-3 - AMENDING, REPEALING AND ADDING SECTIONS TO THE FRESNO MUNICIPAL CODE RELATING TO LOCAL PREFERENCE IN COMPETITIVE PROCUREMENT PROCESSES (*Not adopted*)

1. BILL NO. B-11 - BILL FOR INTRODUCTION AMENDING, REPEALING AND ADDING SECTIONS TO THE FRESNO MUNICIPAL CODE RELATING TO LOCAL PREFERENCE IN COMPETITIVE PROCUREMENT PROCESSES (*Changing the 25 mile radius to a Fresno county radius*)

Councilmember Calhoun displayed a map with a circle around Fresno county and spoke to his concern with the existing 25 mile radius and to his support for a county-wide preference, noted Fresno County had no preference and pointed out cities within the 25 mile radius have benefitted from Fresno's local preference but it was not reciprocal and elaborated **(6 - 0)**, stated he also did not believe all the facts were before Council and referencing earlier comments from the contractors questioned if the City would be shooting itself in the foot by increasing the preference to 5%, stated he was troubled by Madera benefitting from the preference when Mendota or Firebaugh who are in Fresno county don't, and stated he felt additional time was needed to look into these issues, or at a county radius if nothing else, and made a motion to direct staff to address the 25 mile radius and provide any data that might show the City would be hurting itself by not attracting outside bidders, what the implications would be of not including the entire county, and whether other communities have reciprocal programs and return with this item and the information for further Council consideration. Upon call, the motion died for lack of a second.

Councilmember Westerlund noted he supported this last week but he now had concerns due to the fact that the people Council was trying to help stated they do not want the 5% preference; elaborated further on the issue and to how this same thing was brought forth some years ago and was defeated and to the many times only one bidder has responded; recommended action be delayed until February 27th so this matter could be thoroughly vetted; and presented questions to earlier speakers Bruno Dietl of Vulcan Construction & Maintenance and David Jones of AGC relative to what happened when this matter was before Council ten years ago, number of local contractors AGC represents, and if the AGC Board considered this issue. Councilmember Westerlund stated he was concerned about helping people that did not want the help, competition worked, and he wanted time to talk with more contractors, and made a motion to table the matter to February 27th.

A motion of Councilmember Westerlund, seconded by Councilmember Calhoun, to table the matter to February 27, 2007, failed, by the following vote:

Ayes : Calhoun, Duncan, Westerlund
Noes : Dages, Sterling, Xiong, Perea
Absent : None

Councilmember Westerlund stated he could not support this now and urged its' rejection stating due diligence was needed and Council needed to rely on the experts who bid on the City's contracts. Lengthy discussion ensued. Councilmember Sterling expressed her support, stated she saw this as a way to support business and the people of Fresno, stated hearing about preferences in other cities and states told her Fresno may be a little behind in the game, presented questions relative to the bid review process/what staff looks at and if another bid can be accepted due to flaws with the low bidder (with General Services Director Nerland responding), spoke briefly to the city's high unemployment and poverty stating things needed to be done to strengthen the city's economy and keep dollars here, and made a motion to adopt the ordinance. Councilmember Dages seconded the motion and clarified all he was trying to do was keep as many tax dollars and profits here as he possibly could, and stated he was surprised a 5% preference for the 80 local contractors was not wanted, he had no problem with changing the 25 mile radius later, he was pro-business and respectfully disagreed with Mr. Dietl and Mr. Jones and explained, and it was his pleasure to have brought this forth. Councilmember Dages and Senior Deputy City Attorney Algier responded to questions of Acting President Xiong relative to whether Council had a choice on whether to award to the low bidder or not and if public works construction contracts were not considered services. Councilmember Calhoun stated Councilmember Westerlund got to the heart of the issue which was *what is good business* and added it was not necessarily local preference, stated the locals were willing to compete and encouraged the motion be rejected as there was so much more research that needed to be done, concurred there were too many single bidders and sole source bids and stated competitive bidding must be encouraged, and again questioned why Madera should be given preference and stated there were so many loose ends. Councilmember Westerlund stated he did not think Council really grasped the construction business and upon his request Mr. Jones explained how contractors service regions, take management teams and hire people from the local area, and want free competition from Sacramento to Bakersfield. Councilmember Duncan stated he appreciated the positions of Mr. Dietl and Mr. Jones but clarified if a public works project is done in Fresno with a 5% preference used the project will still get done by a Fresno firm, stated he was philosophically very supportive, this was a competitive world, and the City needed to try to realistically and responsibly support local businesses, and spoke to the 25 mile radius and upon his question Councilmembers Dages and Sterling accepted amending the ordinance to change it to a county wide radius. City Attorney Sanchez advised the change constituted a material change to the original ordinance therefor this would constitute the introduction of that change.

On motion of Councilmember Sterling, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Bill No. B-11 introduced before the City Council and laid over, by the following vote:

Ayes	:	Dages, Duncan, Sterling, Xiong, Perea
Noes	:	Calhoun, Westerlund
Absent	:	None

(2:30 P.M. #2) CLOSED SESSION:

(“A”) PUBLIC EMPLOYEE PERFORMANCE EVALUATION - TITLE: CITY CLERK

(“B”) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - CASE NAMES:

1. STEPHEN SALVADORE GAMBOA, ET AL. V. COF, ET AL.
2. PIZZO V. COF, AND FRESNO METROPOLITAN FLOOD CONTROL DISTRICT (FMFCD)

(“C”) CONFERENCE WITH LEGAL COUNSEL - DECIDING WHETHER TO INITIATE LITIGATION - CASE NAME: COF V. THE DISCOVERY CENTER

The City Council met in closed session in Room 2125 at the hour of 3:42 p.m. to consider the above matters and reconvened in regular open session at 4:49 p.m.

CLOSED SESSION ANNOUNCEMENT:

City Attorney Sanchez announced in the matter of Item B-2, Pizzo v. COF, Council authorized the filing of a lawsuit against the FMFCD and the neighboring property owners, the Guzmans, by a unanimous vote.

The City Council recessed at 4:50 p.m. and convened in joint session with the Redevelopment Agency.

(3:00 P.M.) JOINT MEETING WITH THE REDEVELOPMENT AGENCY

(“A”) JOINT RESOLUTION NO. 2007-36 /1691 - DESIGNATING POSITIONS WHICH SHALL BE SUBJECT TO THE CONFLICT OF INTEREST CODE AND DEFINING CATEGORIES OF DISCLOSURE FOR SUCH POSITIONS

Briefly reviewed by City Clerk Klisch who advised this was a routine matter done annually and recommended approval.

On motion of Councilmember Duncan, seconded by Councilmember Westerlund, duly carried, RESOLVED, the above entitled Joint Resolution No. 2007-36/1691 hereby adopted, by the following vote:

Ayes	:	Calhoun, Dages, Duncan, Perea, Westerlund, Xiong, Sterling
Noes	:	None
Absent	:	None

The joint bodies adjourned their meeting at 4:51 p.m. and the City Council reconvened in regular session.

(4:00 P.M.) CONTINUED HEARING TO CONSIDER COUNCIL DISTRICT RE-DETERMINATION REPORT AND INTRODUCTION OF ORDINANCE TO ADOPT NEW COUNCIL DISTRICT BOUNDARIES

1. BILL NO. B-12 - BILL FOR INTRODUCTION MODIFYING COUNCIL DISTRICT BOUNDARIES

Administrative Manager Agabashian reviewed the issue, all as contained in the staff report as submitted, and recommended the ordinance be introduced. Councilmember Duncan commended Planning & Development Director Yovino and staff for all their hard work and stated this was a good system that worked and the adjustments were warranted, noted a good piece of his district would be transferred out to Districts 4 and 7 and thanked his outgoing constituents for the opportunity to represent them, and made a motion to introduce the ordinance. Councilmember Westerlund also thanked staff for their work stating a lot was involved in modifying the boundaries, and stated he also would be losing a portion of his district and looked forward to meeting his new constituents and representing them. Councilmember Dages requested staff provide the new maps as soon as possible so they can be provided to constituents. President Perea stated he would be the lone “no” vote due to his district being “cut up” so much and the boundaries being hard to define and explained, and advised he shared his concerns with staff and requested staff start moving in the direction of trying to square off the boundaries.

On motion of Councilmember Duncan, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Bill No. B-12 introduced before the City Council and laid over, by the following vote:

Ayes	:	Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong
Noes	:	Perea
Absent	:	None

(2-D) BILL NO. B-179 - ORDINANCE NO. 2007-12 - AMENDING THE FRESNO MUNICIPAL CODE RELATING TO COUNCIL DISTRICT PLAN IMPLEMENTATION COMMITTEES - COUNCILMEMBER DUNCAN

Councilmember Duncan noted this had been before Council a couple of times already and made motion to adopt. Councilmember Dages and President Perea spoke briefly to the issue and thanked Councilmember Duncan for his work and coming up with a good plan.

On motion of Councilmember Duncan, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Bill No. B-179 adopted as Ordinance No. 2007-12, by the following vote:

Ayes	:	Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea
Noes	:	None
Absent	:	None

THERE BEING NO FURTHER BUSINESS TO BRING BEFORE THE CITY COUNCIL, THE HOUR OF 5:07 P.M. HAVING ARRIVED AND HEARING NO OBJECTIONS, PRESIDENT PEREA CONTINUED THE MEETING TO THURSDAY, FEBRUARY 1, 2007, AT 9:00 A.M., AT THE NEW EXHIBIT HALL, 848 "M" STREET, ROOM 2015-2018, FOR A JOINT MEETING WITH FRESNO COUNTY TO DISCUSS PUBLIC SAFETY INTEGRATION

Approved on the ____6th____ day of _____ February _____, 2007.

_____/s/_____
Henry Perea, Council President

ATTEST: _____/s/_____
Yolanda Salazar, Assistant City Clerk

